THE HON'BLE Ms. JUSTICE G. ROHINI

W.P.No.15022 OF 2004

ORDER:

The Writ Petitioner was appointed as a fair price shop dealer of Vemula village, Addakal Mandal, Mahabubnagar District, long back in the year 1992, and he was continuing as such till the year 2000. It appears that in the year 2000 he had a paralytic stroke, and consequently, could not make the application for renewal of his authorization in time. The petitioner states that he made the application for renewal on 13.6.2000 with late fees. However, it appears that the said application was not considered and keeping in view the fact that the petitioner was unable to run the fair price shop, the vacancy was notified, and after following the due selection process, the 4th respondent was appointed as the fair price shop dealer by order of the 2nd respondent-Revenue Divisional Officer, Mahabubnagar, dated 9.03.2002. Aggrieved by the same, the petitioner preferred an appeal before the 1st respondent-Joint Collector, Mahabubnagar. The 1st respondent having heard all the parties concerned by order dated 25.2.2003 disposed of the appeal and remanded the matter back to the Revenue Divisional Officer for conducting due enquiry and passing appropriate orders after affording opportunity to the appellant therein. There was also a direction that such orders shall be passed within a period of two months. However, since the said order was not immediately implemented, the petitioner filed W.P.No.11493 of 2003. While directing notice to the respondents, this Court granted an interim order dated 19.6.2003 to implement the order of the Joint Collector dated 25.2.2003. It is not in dispute that in compliance of the interim order of this Court, the petitioner's authorization has been restored and he has been permitted to run the fair price shop from July, 2003 onwards. However, in the meanwhile, the 4th respondent preferred a revision before the District Collector, Mahabubnagar and the same was allowed by order dated 12.8.2004, which is under challenge in this Writ Petition. Pending the Writ Petition, by virtue of the interim order granted by this Court, the petitioner is being continued as fair price shop dealer, as on today.

Heard the learned counsel for both the parties and perused the material on record.

The learned counsel for the petitioner submits that the petitioner was appointed as a fair price shop dealer long back in the year 1992, and he has run the fair price shop without any complaint from any corner for about ten years, and for a short time he could not run the fair price shop, since he fell seriously ill. He also submits that as a matter of fact he made an application for renewal of his authorization with late fee, which the 2nd respondent failed to consider in accordance with law, and therefore, the 1st respondent has rightly directed the 2nd respondent – Revenue Divisional Officer, to conduct enquiry and to pass appropriate orders. The learned counsel contends that the District Collector was not justified in setting aside the said order, which does not suffer from any legal infirmity.

Heard the learned counsel for the 4th respondent as well as the learned Government Pleader, appearing for the respondents 1 to 3. It is to be noted that since it is the specific case of the petitioner that he made an application for renewal of authorization with late fee on 13.6.2000, it is necessary for the Revenue Divisional Officer to ascertain the fact whether such an application was made in accordance with law and whether the petitioner is entitled for renewal. Since admittedly the Revenue Divisional Officer has not conducted such enquiry and no finding has been recorded as to the entitlement of the petitioner to continue as a dealer, the Appellate Authority has rightly directed enquiry by the Revenue Divisional Officer. Such order cannot be held to be vitiated on account of any illegality. Hence the Revisional authority ought not to have set aside the same.

Accordingly, the order of the District Collector, Mahabubnagar, dated 12.8.2004 is set aside and the Writ Petition is disposed of with a direction to the 2nd respondent-Revenue Divisional Officer, Mahabubnagar, to conduct enquiry in terms of the order of the 1st respondent-Joint Collector, dated 25.2.2003, and to pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of this order. Needless to mention that such an enquiry shall be conducted after affording due opportunity to the petitioner as well as the 4th respondent to put forth their own versions. Till such time, the respondents are directed to continue the petitioner as dealer of the fair price shop in question. No costs.

17th October, 2005.

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THE HON'BLE Ms. JUSTICE G. ROHINI

W.P.No.15022 OF 2004

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17.10.2005

Y. Narsimulu. .. Petitioner.

And

The Joint Collector, Mahabubnagar

and three others. ..Respondents.